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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Biennial Regulatory Review – Amendment of	)	
Parts 0, 1, 13, 22, 24, 26, 27, 80,	)	WT Docket No. 98-20
87, 90, 95, 97, and 101 of the Commission's Rules	)	
to Facilitate the Development and Use of the	)	
Universal Licensing System in the Wireless	)	
Telecommunications Services	)	

COMMENTS OF AIRTOUCH COMMUNICATIONS

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COMMENTS OF AIRTOUCH COMMUNICATIONS

AirTouch Communications ("AirTouch")[1] hereby submits its comments in response to the above-referenced *Notice of Proposed Rulemaking* ("*NPRM*").[2] AirTouch notes at the outset that it strongly supports the Commission's efforts to streamline its licensing process for wireless services. AirTouch is confident that the Commission's streamlining efforts will continue to improve the speed, efficiency and accuracy of the wireless licensing process. Nevertheless, AirTouch believes that certain clarifications and modifications to the Commission's proposal are required in order to smooth the transition for wireless licensees to an electronic filing environment.

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[1] AirTouch is a CMRS provider with interests in cellular, paging, PCS and mobile satellite services, both domestic and international.

[2] *Biennial Regulatory Review — Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, WT Docket No. 98-20, Notice of Proposed Rulemaking (rel. Mar. 18, 1998)("*NPRM*").

INTRODUCTION AND SUMMARY

As described in the *NPRM*, the Commission is proposing to streamline its licensing rules applicable to the wireless radio services, and to consolidate over 40 license application forms into five new forms. The Commission also proposes to adopt a new electronic license application filing system — the Universal Licensing System ("ULS") — which will allow wireless radio applicants and licensees to prepare and file all licensing-related forms and applications electronically utilizing an integrated, uniform technological platform. The purpose of the ULS is

> to establish a simplified set of rules that (1) minimizes filing requirements as much as possible; (2) eliminates redundant, inconsistent or unnecessary submission requirements; and (3) assures ongoing collection of reliable licensing and ownership data.[3]

AirTouch fully supports the Commission's efforts to make the licensing process more efficient through implementation of the ULS. In order to ensure a successful transition to the ULS, however, AirTouch respectfully requests the following modifications and clarifications.

First, the Commission should lengthen the proposed implementation schedule for the ULS. Given the complexities associated with transitioning to the ULS, AirTouch believes that the Commission's January 1, 1999 timetable for full implementation is overly ambitious. *Second*, the Commission must provide detailed information concerning batch filing procedures to be used with the ULS; licensees with large numbers of authorizations, like AirTouch, will need batch filing capability in order to integrate their existing databases with the ULS. *Third,* given that one of the principal objectives of the *NPRM* is to streamline existing rules, the

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[3] *Id.* at ¶ 8.

Commission should not make any rule changes that would increase the filing burdens of any wireless service. In particular, AirTouch is concerned that the Commission's proposed major and minor filing classification scheme will impose new information submission burdens on licensees (which will increase carrier costs) with no offsetting public interest benefit.

I. The Commission Should Adopt a More Flexible Time Frame for Requiring Mandatory ULS Filing

The Commission proposes to require applicants, licensees and frequency coordinators to file electronically using the ULS beginning on January 1, 1999.[4] In AirTouch's view, this proposed implementation time frame is overly ambitious. AirTouch and other wireless licensees will need sufficient time to verify the Commission's database records, identifying and correcting discrepancies, before the ULS becomes fully operational. Although AirTouch is hopeful that the Commission's data will be largely accurate, it has no way of verifying this until the Commission's electronic data is made available for licensee inspection.

Large licensees, such as AirTouch, will also need sufficient time to reorganize their internal license application preparation and submission processes in order to conform them to the filing procedures envisioned by the ULS. Currently, all of AirTouch's internal application handling processes are geared toward the Commission's manual filing requirements; with the introduction of the ULS, these processes must be converted to accommodate and coordinate electronic filing between AirTouch's various regional operations. This is particularly the case for large licensees like AirTouch which likely will avail themselves of the batch filing option, which, as noted in the next section, has not been fully explained by the Commission.

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[4] *Id.* at ¶ 21.

Accordingly, AirTouch requests that the Commission abandon its proposed time frame for implementing the ULS, and instead adopt a more flexible approach. Specifically, given the unforseen technical difficulties generally involved with the deployment of any new computer system, the Commission should postpone the mandatory electronic filing date until it can assure licensees and applicants that the ULS is fully functional. In addition, AirTouch recommends that the Commission continue to allow permissive paper filings even after the ULS becomes operational in order to assist licensees in making all necessary changes to their internal application preparation and quality control procedures. In sum, the Commission must afford licensees and applicants sufficient flexibility to smoothly transition to the new electronic licensing regime. Such flexibility will ensure a successful implementation of the ULS.

II. The Commission Should Further Explain its Procedures for Batch Filing

AirTouch's domestic operations encompass literally thousands of licensed locations. Because of the tremendous volume of filings AirTouch has made in the past and anticipates making in the future, we are particularly interested in making full use of the ULS batch filing mode, as opposed to the interactive forms filing mode. The *NPRM* contains very little information, however, explaining how batch filing will work with the ULS. In order to facilitate the transition to the electronic filing environment contemplated by the ULS, AirTouch respectfully requests that the Commission provide the public with detailed information regarding batch filing (*i.e.*, required protocols and file formats), and provide applicants with sufficient time to integrate these requirements into their internal application procedures well before requiring applicants and licensees to file electronically.

III. The Commission Should Not Take Any Actions That Increase Burdens on Wireless Licensees and Applicants

Throughout the *NPRM*, the Commission states that its goals are to relieve burdens on wireless filers and minimize filing requirements.[5] Despite this laudable deregulatory intent, however, the Commission proposes to reinstate certain filing requirements that it previously eliminated because they were unnecessarily burdensome. Specifically, the Commission proposes to re-impose the requirements that microwave licensees certify completion of construction[6] and to notify the Commission when non-pro forma license transfers of control or assignments are consummated.[7] These proposals run directly contrary to the Commission's streamlining efforts in this proceeding. Moreover, these proposal would unnecessarily increase costs for wireless carriers. Prior to the Commission's elimination of the notification requirement, for example, AirTouch paid over $30,000 in fees and utilized valuable personnel resources in order to notify the Commission of the more than 1,500 microwave facilities it completed. If the Commission saw no need for such certifications and notifications in paper form,[8] there is no logical reason why such information should be submitted in an electronic

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[5] *See, e.g., id.* at ¶ ¶ 8, 21.

[6] *Id.* at ¶ 60.

[7] *Id.* at ¶ 66.

[8] Indeed, in 1996 the Commission eliminated the construction completion notification requirements for microwave licensees in order to "to further reduce applicants' filing burdens." The Commission reasoned that "[t]he information provided on [Form 494A] is not essential to granting a license." *Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services, Amendment of Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Services, McCaw Cellular Communications, Inc. Petition for Rulemaking*, 11 FCC Rcd 13449 (rel. Feb. 29, 1996) at ¶ 17.

format. AirTouch opposes any attempt to increase burdens on wireless licensees and applicants, particularly where such increased burdens do not confer additional benefits. Accordingly, the Commission *should not* reinstate the above-discussed requirements for microwave licensees.

IV. The Commission Should Clarify Certain Aspects of its Consolidated Major and Minor Amendment Filing Requirements

AirTouch supports the Commission's undertaking to consolidate its rules with respect to major and minor modifications. The current patchwork of regulations in multiple parts of the Commission's rules often leads to unnecessary confusion. The Commission's commendable efforts to streamline, however, should not overlook the genuine differences that exist between the various wireless services that gave rise to these disparate requirements in the first place. Specifically, the consolidation of the major/minor application filing classifications should not result in the re-imposition of filing burdens on licensees and applicants that the Commission previously determined to be unnecessary. Accordingly, AirTouch proposes that the Commission clarify and/or modify the following aspects of the *NPRM*.

A. The Consolidated Major Amendments Do Not Take Into Consideration the Commission's Relaxed Notification Requirements for Cellular Licensees

In September 1994, the Commission substantially relaxed notification requirements for cellular licensees. In brief, the Commission ceased "licensing" individual cell sites within a licensee's existing cellular geographic service area ("CGSA").[9] Specifically, the Commission

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[9] *Revision of Part 22 of the Commission's Rules Governing the Public Mobile Service, Amendment of Part 22 of the Commission's Rules to Delete Section 22.119 and Permit the Concurrent use of transmitters in Common Carrier and Non-Common Carrier Service, Amendment of Part 22 of the Commission's Rules Pertaining to Power Limits for Paging Stations Operating in*

adopted new Sections 22.163 and 22.165 that eliminated the prior "requirement that licensees notify the Commission when they make 'permissive' minor modifications to their stations or add new 'internal' transmitters to existing systems."[10] As the Commission reasoned, these notifications were "unnecessary because [such] information is not needed by the Commission staff, other licensees or the public."[11] Moreover, the FCC noted that elimination of these notification requirements "would reduce the number of notifications filed and thus conserve Commission and industry resources."[12]

The Commission now appears to propose to reinstate these notification requirements for cellular licensees' internal cell sites. Because the Commission's proposed major modification categories apply to *all* wireless radio service licensees, it appears that cellular licensees would have to request FCC authorization for modifications to internal cell sites if the modification would trigger an FAA notification requirement as defined in 47 C.F.R. Part 17 Subpart B. Additional major modification categories would also require FCC authorization for any modifications to internal cell sites that

- increase antenna height above average terrain (HAAT)
- change the effective radiated power (ERP)
- change the latitude or longitude
- increase or expand coverage area

There is no valid reason for reinstating these notification requirements on internal

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the 931 MHz Band in the Public Land Mobile Service, 9 FCC Rcd 6513 (rel. Sept. 9, 1994) at ¶ 87.

[10] *Id.* at ¶ 22.

[11] *Id.*

[12] *Id.*

cellular telephone sites. As the Commission previously recognized, there is no need for such information by the public, the Commission, or licensees. Accordingly, the Commission should clarify that, consistent with current practice, cellular licensees need not notify the Commission of the above-listed modifications, amendments or changes with respect to cell sites that are wholly within a licensee's CGSA.[13]

B. The Consolidated Major Amendment Rules Do Not Take into Consideration the Block Assignments of Cellular Licenses

The Commission proposes that "for all stations in all wireless radio services, whether licensed geographically or on a site-specific basis, any addition or change in frequency excluding removing a frequency" should be considered a major modification to a pending application or license.[14] As the Commission is aware, cellular licenses are assigned on a block basis, *i.e.,* each channel block is assigned exclusively to one licensee for that licensee's sole use in the licensee's CGSA.[15] Accordingly, the Commission does not require cellular licensees to notify the Commission when they are adding or changing frequencies. The Commission should thus clarify that for cellular licensees, any frequency change or addition within a licensee's authorized spectrum block does not constitute any type of amendment, major or minor.

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[13]Of course, licensees must continue to comply with the Federal Aviation Administration's notification requirements pursuant to Part 17 of the Commission's rules regardless of whether proposed changes involve an internal cell site or not.

[14]*NPRM* at ¶ 38.

[15]47 C.F.R. §22.905.

V. Other Issues

A. Multiple Minor Changes

The Commission proposes that multiple minor changes should be considered a major change when "their cumulative effects relative to the original authorization exceed the threshold(s) set forth [] as major changes."[16] Although this proposal is not a change from existing rules, it is unclear whether the ULS will have the capability to track when the threshold from minor to major amendment has been crossed for a given facility. Assuming such capability is available, AirTouch requests that any minor filing determined by the ULS to cumulatively require a major filing be returned to the applicant so that the applicant can determine whether to resubmit the application or withhold it altogether. In other words, the Commission should not allow the ULS to automatically reclassify a minor application as major without the applicant's assent.

B. Consolidation of Minor Amendment Rules

The Commission proposes to consolidate existing Sections 101.57 and 101.59 into a single rule governing minor amendments. AirTouch supports this consolidation of rules applicable to minor amendments, but notes that existing Section 101.57 governs major modifications. It is conceivable that the Commission intended, instead, to combine existing Sections 101.59 and 101.61, both of which govern minor modifications. AirTouch respectfully requests that the Commission clarify this matter.

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[16] *NPRM* at ¶ 41.

C. Map Filing Requirements

The Commission's proposed new rules are unclear as to whether cellular applicants will continue to be required to file maps in connection with their applications. Specifically, the *NPRM* proposes to retain existing Section 22.929(c), which imposes a map filing requirement, but simultaneously proposes to eliminate Section 22.953, which establishes the formatting requirements for such maps. Because it is AirTouch's understanding that the ULS is equipped with the ability to generate maps from licensee-provided information, it is unclear why the Commission would retain an additional filing burden on applicants to submit maps at all, particularly in the context of this streamlining proceeding. Accordingly, the Commission should make clear that cellular licensees need no longer file maps in connection with their applications.

CONCLUSION

AirTouch fully supports the Commission's efforts to streamline its application preparation, submission and processing procedures. AirTouch also supports the Commission's objective to consolidate its wireless licensing application rules. However, insofar as the *NPRM* outlines an ambitious plan to completely transform the existing wireless license application regime to which the Commission and its licensees have grown accustomed over the years, AirTouch urges the Commission to afford applicants and licensees sufficient time and flexibility

to transition to the ULS. Clarification of other points raised in these comments will also help ensure a successful deployment of the ULS for everyone involved.

Respectfully submitted,

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